recuse him or herself and delegate his or her authority under this section to a person not so involved.

(b) A party may file a reply to an appeal within 25 days of service of the appeal. If the party relies on evidence contained in the record for the reply, the party shall specifically refer to the pertinent evidence in the record.

(c) The Administrator may extend the period for filing an appeal or a response for good cause shown, provided the written request for extension is served before the expiration of the applicable period provided in paragraph (c) or (d) of this section.

(d) The Administrator has sole discretion to permit oral argument on the appeal. On the Administrator's own initiative or upon written motion by any party, the Administrator may determine that oral argument will contribute substantially to the development of the issues on appeal and may grant the parties an opportunity for oral argument.

(e) The Administrator may affirm, reverse, alter, or modify the decision of the presiding officer, or may remand the case for further proceedings before the presiding officer. The Administrator shall inform the parties and the presiding officer of his or her decision.

(f) The decision of the Administrator is final, constitutes final agency action, and is not subject to further administrative review.

§ 209.329 Assessment considerations.

(a) Proof of a respondent's willful violation of one of the requirements of parts 213 through 236 (excluding parts 225, 228, and 233) of this title establishes a rebuttable presumption that the respondent is unfit to perform the safety-sensitive functions described in § 209.303. Where such presumption arises, the respondent has the burden of establishing that, taking account of the factors in paragraph (b) of this section, he or she is fit to perform the foregoing safety-sensitive functions for the period and under the other conditions, if any, proposed in the notice of proposed disqualification.

(b) In determining respondent's lack of fitness to perform safety-sensitive functions and the duration and other conditions, if any, of appropriate disqualification orders under §§ 209.309, 209.323, and 209.327, the factors to be considered, to the extent each is pertinent to the respondent's case, include but are not limited to the following:

(1) The nature and circumstances of the violation, including whether the violation was intentional, technical, or inadvertent, was committed willfully, or was frequently repeated;

(2) The adverse impact or the potentially adverse impact of the violation on the health and safety of persons and the safety of property;

(3) The railroad's operating rules, safety rules, and repair and maintenance standards;

(4) Repair and maintenance standards adopted by the industry;

(5) The consistency of the conditions of the proposed disqualification with disqualification orders issued against other employees for the same or similar violations;

(6) Whether the respondent was on notice of any safety regulations that were violated or whether the respondent had been warned about the conduct in question;

(7) The respondent's past record of committing violations of safety regulations, including previous FRA warnings issued, disqualifications imposed, civil penalties assessed, railroad disciplinary actions, and criminal convictions therefor;

(8) The civil penalty scheduled for the violation of the safety regulation in question;

(9) Mitigating circumstances surrounding the violation, such as the existence of an emergency situation endangering persons or property and the need for the respondent to take immediate action; and

(10) Such other factors as may be warranted in the public interest.

§ 209.331 Enforcement of disqualification order.

(a) A railroad that employs or formerly employed an individual serving under a disqualification order shall inform prospective or actual employers of the terms and conditions of the order upon receiving notice that the disqualified employee is being considered for employment with or is employed by another railroad to perform any of the safety-sensitive functions described in § 209.303.

(b) A railroad that is considering hiring an individual to perform the safety-sensitive functions described in § 209.303 shall ascertain from the individual's previous employer, if such employer was a railroad, whether the individual is subject to a disqualification order.

(c) An individual subject to a disqualification order shall inform his or her employer of the order and provide a copy thereof within 5 days after receipt of the order. Such an individual shall likewise inform any prospective employer who is considering hiring the individual to perform any of the safety-sensitive functions described in § 209.303 of the order and provide a copy thereof within 5 days after receipt of the order or upon application for the position, whichever first occurs.

§ 209.333 Prohibitions.

(a) An individual subject to a disqualification order shall not work for any railroad in any manner inconsistent with the order.

(b) A railroad shall not employ any individual subject to a disqualification order in any manner inconsistent with the order.

§ 209.335 Penalties.

(a) Any individual who violates § 209.331(c) or § 209.333(a) may be permanently disqualified from performing the safety-sensitive functions described in § 209.303. Any individual who willfully violates § 209.331(c) or § 209.333(a) may also be assessed a civil penalty of at least $1,000 and not more than $5,000 per violation.

(b) Any railroad that violates § 209.331 (a) or (b) or § 209.333(b) may be assessed a civil penalty of at least $5,000 and not more than $10,000 per violation.

(c) Each day a violation continues shall constitute a separate offense.

Issued in Washington, DC, on October 11, 1989.

Gilbert E. Carmichael,

Federal Railroad Administrator.

[FR Doc. 89-24523 Filed 10-17-89; 8:45 am]

BILLING CODE 4910-06-M

Federal Register

Wednesday
October 18, 1989

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 139

Airport Certification and Operations; Clarification of Various Provisions; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 139

[Docket No. 25698; Notice No. 89-30]

RIN 2120-AD10

Airport Certification and Operations; Clarification of Various Provisions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes changes to the certification and operation regulations of land airports serving air carriers. These actions regarding certification requirements and the control of ground vehicles on an airport are necessary for consistency with existing operating regulations and to address concerns that the current language appears to place undue responsibility and liability on certificate holders. The proposed changes are intended to permit use of uncertificated airports, by air carriers in unscheduled service, in certain situations and clarify responsibility for compliance with airport rules for the operation of ground vehicles by individual tenants, contractors, and employees.

DATE: Comments must be submitted on or before December 18, 1989.

ADDRESS: Comments on this notice should be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Council, Attention: Rules Docket (AGC-10), Docket No. 25698, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 25698. Comments may be examined in Room 915G weekdays between 8:30 a.m. and 5 p.m. except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Rancourt, Airport Safety and Operations Division (AAS-300), Office of Airport Safety and Standards, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-8723.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with Federal Aviation Administration (FAA) personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25698." The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA-430), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Discussion of the Proposed Rule

Background

Part 139 of the Federal Aviation Regulations (FAR) prescribes rules governing the certification and operation of land airports serving any passenger operation of an air carrier that is conducted with an aircraft having a seating capacity of more than 30 passengers. In 1987, the FAA issued Amendment No. 139-14 (52 FR 44276, November 18, 1987) which revised and reorganized the part to make it more understandable, defined certain requirements more specifically, and imposed additional safety requirements. Since that time, it has become evident that these proposed changes are necessary for consistency with existing operating regulations and to clarify current requirements.

General Discussion of the Proposals

Section 139.101

Current § 139.101(b) states, in pertinent part, that no person may operate a land airport in the United States serving any unscheduled passenger operation of an air carrier while operating an aircraft having a seating capacity of more than 30 passengers without or in violation of a limited airport operating certificate. Section 121.590 prohibits air carriers and pilots operating under part 121 from operating into a land airport unless it is certificated under part 139; however, it includes a provision for special authorization by the Administrator. The proposal would include the same type of provision in § 139.101. This provision is needed in emergency or sensitive situations such as the use of large air carrier aircraft in evacuations, emergencies, natural disasters, and unusual circumstances such as the operation of aircraft accompanying Air Force One when the President is traveling. The proposed change would make the airport certification requirement in part 139 consistent with the operating requirement in part 121 and would provide the Administrator with the authority to allow air carrier operations into an uncertificated airport in emergency and unusual circumstances. Additional editorial changes are proposed for clarity and consistency.

Section 139.329

Current § 139.329, in pertinent part, requires airport operators to ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the airport which has access to the movement area is familiar and complies with the airport's rules and procedures for the operation of ground vehicles. After Amendment No. 139-14 was published, airport operators expressed concern that the section, as amended, appears to make an airport operator absolutely liable in every case of a ground vehicle violation. There was particular concern since the words "and complies" were not included in the NPRM.

The FAA had not intended this change in the language as a substantive change. Since previous § 139.59 required airport operators to have procedures for the control of ground vehicles, the FAA viewed this revision as making explicit the requirements that had been implicitly understood in the previous

version of the rule. However, because of the unintended effect of the language and the misinterpretation of intent, the FAA issued a policy statement in an attempt to clarify the intent of the provision.

Petition for Rulemaking

The Airport Operators Council International (AOCI) and the American Association of Airport Executive (AAAE) have jointly petitioned the FAA to clarify the language in the regulation. The petition raises the concern that the language can be interpreted to place liability for any ground vehicle violation on airport operators. A summary of the petition was published in the **Federal Register** on November 14, 1988 (53 FR 45771). In response to this petition, the FAA received approximately 20 comments supporting the request for change. No responses were received opposing the petition.

The FAA agrees with AOCI/AAAE that the language in § 139.329(e) should be changed. It is not intent of the FAA to establish strict liability on the part of the airport operators but to ensure compliance on the part of individual vehicle operators. It is the FAA's intent to require airport operators to have adequate procedures and to require that they implement those procedures. Therefore, the FAA is proposing to amend § 139.329 (b) and (e) to clarify that airport operators must establish and implement a program for the operation of ground vehicles. The program must include a compliance aspect so that individuals, tenants, and other operators of ground vehicles who do not comply with the program are held accountable by the airport operator for their noncompliance.

It is the FAA's view that these proposed changes are not substantive, reflect what had always, been the airport operator's responsibility, and reflect those obligations more clearly in the rule. The program, including the provisions identifying the consequences of noncompliance, may vary with airport size and complexity, the number and type of ground vehicle operations, and similar factors that result in the variations reflected now among airports.

Paperwork Reduction Act

The proposed amendments to §§ 139.101 and 139.329 do not change any recordkeeping or reporting burden associated with those sections. Information collection requirements in part 139 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0063.

Regulatory Evaluation

The proposed changes would place no additional requirements or costs upon certificate holders. The FAA has not quantified any specific economic benefits, although there are some perceived benefits, as reflected in the AOCI/AAAE petition. For the reason, it has been determined that the expected economic impact of the proposals are so minimal that a full Regulatory Evaluation is not warranted.

International Trade Impact Analysis

The proposals affect only airports subject to part 139 of the Federal Aviation Regulations. Accordingly, the proposed rules would have no impact on trade opportunities for U.S. firms doing business overseas and foreign firms doing business in the United States.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this document involves proposed regulations which are not major rules under Executive Order 12291 and are not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Additionally, it is certified that, under the criteria of the Regulatory Flexibility Act, this NPRM will not have a significant economic impact, positive or negative, on a substantial number of small entities.

List of Subjects in 14 CFR Part 139

Air carriers, Aircraft, Airports, Airplanes, Air safety, Aviation safety, Air Transportation, Safety, Transportation.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration Proposes to amend part 139 of the Federal Aviation Regulations (14 CFR part 139) as follows:

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CERTAIN AIR CARRIERS

1. The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. 1354(a) and 1432; 49 U.S.C. section 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

2. By revising § 139.101 to read as follows:

§ 130.101 Certification requirements: General.

(a) No person may operate and land airport in any State of the United States, the District of Columbia, or any territory or possession of the United States, serving any scheduled passenger operation of an air carrier operating an aircraft having a seating capacity of more than 30 passengers without an airport operating certificate, or in violation of that certificate, the applicable provisions of this part, or the approved airport certification manual for that airport.

(b) Unless otherwise authorized by the Administrator, no person may operate a land airport in any State of the United States, the District of Columbia, or any territory or possession of the United States, serving any unscheduled passenger operation of an air carrier operating an aircraft having a seating capacity of more than 30 passengers without a limited airport operating certificate, or in violation of that certificate, the applicable provisions of this part, or the approved airport specifications for that airport.

3. By amending § 139.329 by revising paragraphs (b) and (e) to read as follows:

§ 139.329 Ground Vehicles.

* * * * *

(b) Establish and implement a program for the safe and orderly access to, and operation on, the movement area and safety areas by ground vehicles, including provisions identifying the consequences of noncompliance with the program by an employee, tenant, or contractor;

* * * * *

(e) Ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the airport which has access to the movement area is familiar with the airport's rules and procedures for the operation of ground

vehicles and the consequences of noncompliance; and

* * * * *

Raymond T. Uhl,

Acting Director, Office of Airport Safety and Standards, AAS–1.

Issued in Washington, DC on October 10, 1989.

[FR Doc. 89–24541 Filed 10–17–89; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
October 18, 1989

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 1 et. al.
Airspace Reclassification; Proposed Rule

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 1, 11, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 137, and 171

[Docket No. 24456, Notice No. 89-28]

RIN 2120-AB95

Airspace Reclassification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt certain recommendations of the National Airspace Review (NAR) concerning changes to regulations and procedures dealing with airspace classification. These changes are intended to: (1) Simplify airspace designations; (2) achieve international commonality of airspace designations; (3) increase standardization of equipment requirements for operations in the various classifications of airspace; and (4) associate appropriate pilot certification requirements, visual flight rules (VFR) visibility and distance from clouds rules, and air traffic services offered in each proposed class of airspace. This proposal represents the combination of three separate advance proposals issued in 1985 concerning airspace assignment and related air traffic operating rules. The FAA believes the simplified airspace classification proposed in this action will reduce existing airspace complexity and thereby enhance safety.

DATES: Comments must be received on or before April 18, 1990.

ADDRESSES: Comments may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24456, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. A. Wayne Pierce, Air Traffic Rules Branch, ATO-230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in these proposed rulemaking procedures by submitting such written data, views, or arguments as they may desire. Any materials submitted should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24456." The postcard will be date/time stamped and returned to the commenter. The proposals contained in this notice may be changed as a result of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of the Advisory Circular No. 11-2 which describes the application procedure.

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. Organizations participating in the NAR included:

Aircraft Owners and Pilots Association (AOPA)
Air Lines Pilots Association (ALPA)
Air Transport Association (ATA)
Department of Defense (DOD)
Experimental Aircraft Association (EAA)
Federal Aviation Administration (FAA)
Helicopter Association International (HAI)
National Association of State Aviation Officials (NASAO)
National Business Aircraft Association (NBAA)
Regional Airline Association (RAA)

The main objectives of the NAR were:

(1) To develop and incorporate into the ATC system a more efficient relationship between traffic flows, airspace allocation, and system capacity. This will involve the use of improved air traffic flow management to maximize system capacity and improve airspace management.

(2) To review and eliminate, wherever possible, governmental restraints to system efficiency imposed by Federal Aviation Regulations (FAR) and FAA directives thereby reducing complexity and simplifying the ATC system.

(3) To revalidate ATC services within the National Airspace System (NAS) with respect to state-of-the-art and future technological improvements.

In concert with the foregoing objectives, several NAR task groups were organized and assigned to review various issues associated with airspace classifications and ATC procedures, pilot certification requirements, and aircraft equipment and operating requirements in the different categories of airspace. The recommendations identified and discussed below in the paragraph entitled "Discussion of Pertinent NAR Recommendations," were made by these task groups and were the basis of three separate advance notices of proposed rulemaking (ANPRM): Notice No. 85-4, Terminal Airspace Reclassification, Docket No. 24455 (50 FR 5055; 2/5/85); Notice No. 85-5, Airspace Reclassification/Services/Requirements, Docket No. 24456 (50 FR 5046; 2/5/85); and Notice No. 85-15, Controlled Airspace Designations in International Airspace, Docket No. 24732 (50 FR 30798; 7/29/85).

Related Agency Actions

Subsequent to the issuance of these ANPRM's, the FAA has undertaken other regulatory actions which affect the content of the airspace reclassification being proposed. First, on January 29, 1987, the FAA issued Amendment No. 91-198 (52 FR 3380; 2/3/87) which required, effective 12/1/87, all aircraft operating in a Group II terminal control area (TCA) to be equipped with a transponder capable of reporting altitude information.

Second, on October 14, 1988, the FAA published Amendment Nos. 61-80, 71-11, and 91-205 (53 FR 40318). Amendment No. 71-11 established a single-class TCA. Operations within what were previously Group II TCA's will be subject to the more stringent aircraft equipment requirements already existing for Group I TCA's (Amendment No. 91-205).

Pursuant to Amendment Nos. 61-80 and 91-205, operations within a TCA by a student pilot will be limited to those conducted through a TCA, at non-TCA

primary airports, and at selected TCA primary airports. Such student pilot operations will be allowed only after the student has received specific additional training, a determination that the student is competent to operate in a TCA, and a logbook endorsement by an instructor of the student's competency. Also proposed under the same NPRM (Notice No. 87–7) that culminated in Amendment Nos. 61–80, 71–11, and 91–205, each aircraft operating below 12,500 feet mean sea level (MSL) within 30 miles of a TCA primary airport would have been required to have an operating transponder with automatic altitude reporting capability. This last proposal was modified and made a part of Amendment No. 91–203 (52 FR 23356; June 21, 1988). Amendment No. 91–203 requires, in pertinent part, altitude encoding: (1) When operating within 30 miles of a TCA primary airport below 10,000 feet; (2) above an airport radar service area (ARSA) below 10,000 feet; (3) anywhere, at and above 10,000 feet.

Third, the FAA proposed, in response to laws enacted in December 1987, Pub. L. 100–202 and Pub. L. 100–223, to lower the Continental Control Area from 14,500 feet MSL to 1,200 feet above the surface or an altitude yet to be determined. If this proposition, originally publicized in Notice No. 88–2 (53 FR 4306; February 12, 1988), is adopted, there would be no need to continue to designate controlled airspace with the establishment of a Federal Airway. The lowering of Continental Control Area was not included in the final rule, Amendment No. 91–203, and it is not proposed in this notice but may be proposed in a separate, subsequent notice. Notice No. 88–2 also proposed a requirement for aircraft to be equipped with a transponder and altitude reporting equipment for operations within 40 miles of an airport for which a terminal radar facility has been established, and for operations at and above 6,000 feet above the surface or 12,500 feet MSL, whichever is lower. These altitude reporting requirements were modified and made a part of Amendment No. 91–203, as indicated in the preceding paragraph.

The airspace reclassification and requirements proposed earlier in the ANPRM's have been revised in this notice to reflect only those proposals which have not been incorporated into other related rulemaking actions. Those revisions are addressed later in this document in a discussion of the actions proposed.

International Implications

Canada has already implemented a new airspace classification system dividing Canadian airspace into six categories, and has conducted a formal review of that airspace classification system within a framework similarly structured to the U.S. National Airspace Review (NAR). This review is called the Canadian Airspace Review. Currently, Canada's categories of airspace are defined as Classes A, B, C, D, E, and F. Each class of airspace is associated with a set of pilot qualification requirements, pilot operating rules, and specific ATC services.

In addition, the Air Navigation Commission (ANC) of the International Civil Aviation Organization (ICAO) has accepted a recommendation from the Visual Flight Operations Panel (VFOP) of ICAO which proposes: "That ICAO, as soon as practicable, provide states and selected international organizations with information concerning the proposed types of airspace, the types of traffic, and the air traffic services in each." In conjunction with the VFOP recommendation, an airspace classification concept has been developed by the VFOP and accepted by the ANC as a recommendation. The VFOP's recommendations, along with the nearest equivalent U.S. airspace designations, are summarized as follows:

Airspace A (U.S. Positive Control Areas). All operations must be conducted under instrument flight rules (IFR) and are subject to ATC clearances and instructions. ATC service is provided to all aircraft.

Airspace B (U.S. Terminal Control Areas). Operations may be conducted under IFR or visual flight rules (VFR). However, all aircraft are subject to ATC clearances and instructions. ATC service is provided to all aircraft.

Airspace C (U.S. Airport Radar Service Areas). Operations may be conducted under IFR or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC service is provided to all aircraft operating under IFR and, as necessary, to any aircraft operating under VFR when any aircraft operating under IFR is involved. All VFR operations will be provided collision hazard information (traffic advisories) and, upon request, conflict resolution instructions.

Airspace D (U.S. Airport Traffic Areas). Operations may be conducted under IFR or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC separation service is provided to aircraft operating under IFR only. All traffic will receive collision hazard information (traffic advisories) and, upon pilot request, conflict resolution instructions.

Airspace E (U.S. General Controlled Airspace). Operations may be conducted under IFR or VFR. ATC service is provided to aircraft operating under IFR only. As far as practical, ATC may provide collision hazard information (traffic advisories) to aircraft operating under VFR.

Airspace F (U.S. Has No Equivalent). Operations may be conducted under IFR or VFR. ATC services will be provided, so far as practical, to aircraft operating under IFR.

Airspace G (U.S. Uncontrolled Airspace). Operations may be conducted under IFR or VFR when ATC service is not available.

Present U.S. Airspace Classification

Federal Aviation Regulations (FAR) parts 71, 73, and 75 contain the various designations and definitions of controlled airspace and routes. FAR Part 1 contains the definition of an airport traffic area. Uncontrolled airspace is not designated by regulations but may be thought of as that airspace not included within the definition of controlled airspace in Part 1. Other parts of the FAR contain rules under which pilots and operators must operate while in the various airspace segments as well as in uncontrolled airspace. Pilot certificates are not regulated or issued with respect to operations in a specific airspace designation, but may be issued with a limitation on operations to those conducted under VFR. In general, the application and extent of ATC services are not regulated under the FAR. ATC services are provided in accordance with FAA directives. The following U.S. airspace comparison table is not thoroughly descriptive of the operating requirements of each classification, it is meant only to illustrate the similarity of the airspace types developed by the ICAO panel and those being proposed in this notice.

Positive Control Areas (PCA)—VFOP Class A Airspace. Operations in a PCA must be conducted under IFR and are subject to ATC clearances and instructions. ATC service is provided to all aircraft.

Terminal Control Areas (TCA)—VFOP Class B Airspace. Operations in a TCA may be conducted under IFR or VFR. However, ATC service is provided to all aircraft and all aircraft are subject to ATC clearances and instructions.

Airport Radar Service Areas (ARSA)—VFOP Class C Airspace. Operations may be conducted under IFR or VFR; IFR aircraft are subject to ATC

clearances and instructions. VFR aircraft must maintain two-way radio communications and are subject to certain ATC instructions. ATC separation is provided to all aircraft operating under IFR and, as necessary, to any flights operating under VFR when any aircraft operating under IFR is involved. VFR aircraft are provided with traffic advisories as necessary. Safety alerts are provided to all aircraft.

Airport Traffic Area—VFOP Class D Airspace. Operations may be conducted under either IFR or VFR; all aircraft must be operating to or from an airport in the air traffic area or have an authorization from the primary airport tower. All aircraft (except those operating to or from an uncontrolled airport within an air traffic area are subject to ATC clearances and instructions. ATC separation is provided to aircraft operations conducted under IFR and to takeoff and landing operations. All aircraft are provided with safety alerts. Traffic advisories are provided on a controller-workload-permitting basis.

General Controlled Airspace—VFOP Class E Airspace. For the purpose of showing comparisons with the reclassification being proposed under this NPRM, the term "General Controlled Airspace" is used to describe U.S. airspace designations within which the pilot operating requirements and ATC services are common to the class of airspace recommended by the VFOP. This designation or classification does not presently exist in the United States. General Controlled Airspace may be considered to be that designated as Colored Federal Airways, very high frequency omnidirectional range (VOR) Federal Airways, the Continental Control Area, Control Areas Associated with Jet Routes Outside the Continental Control Area, Additional Control Areas, Control Area Extensions, Control Zones Without Operating Control Towers, Transition Areas, Area High Routes Outside the United States, and Area Low Routes. Operations may be conducted in these airspace designations under IFR or VFR. ATC separation service is provided only to aircraft operating under IFR. ATC traffic advisory service, however, is provided to other aircraft upon request and on a controller-workload-permitting basis.

Special Use Airspace (SUA)—VFOP, Each Nation Would Use Existing Names. Certain types of airspace in this category are defined in, and designated under, part 73 of the FAR (prohibited areas and restricted areas). The FAA also establishes other types of SUA under nonrulemaking procedures such as alert areas, warning areas, controlled firing areas, and military operations areas. Operations within SUA can be conducted under IFR and VFR, and ATC services are provided only on a case-by-case basis. Section 91.105, visibility and distance from clouds minimums apply.

Uncontrolled Airspace—VFOP Class G Airspace. Airspace which is not otherwise designated as a continental control area, control area, control zone, terminal control area, or transition area, within which some or all aircraft may be subject to ATC. Under this proposal, Class G would become all navigable airspace not otherwise designated as Class A, B, C, D, E, or SUA.

Discussion of Comments to the Advance Notices

The comments discussed below were received in response to the three advance rulemaking efforts. These separate efforts are being combined into this action and are being published as one NPRM. Several comments were received which are no longer applicable to this proposal, as they addressed proposals originally contained in the ANPRM's which have been acted upon through other rulemaking actions.

The Air Line Pilot Association (ALPA) commented that the proposal lacks commonality with the Canadian classification and the proposed ICAO airspace system and suggested that it was premature to adopt an airspace classification before there is international agreement. Further, ALPA recommended that the airspace reclassification proposal be used only as a guide for further international consideration.

However, the Aircraft Owners and Pilots Association (AOPA) suggested that international standardization can be achieved and that it is reasonable to assume that an airspace designator should be necessary for each category of airspace that is common in its operations, equipment, and pilot qualification requirements. The VFOP-recommended airspace classification, AOPA suggests, has sufficient merit to justify consideration for some degree of incorporation in the U.S. system. AOPA recommended that the United States give first consideration to obtaining international agreement on an acceptable list of standardized airspace definitions keyed to an alphabetical identifier and should not proceed further with the airspace reclassification proposed in Notice No. 85–5 until such a consensus is reached by the VFOP. Also, AOPA stated, the FAA should achieve standardization, where possible, with the Canadian airspace definitions. However, AOPA stated, the FAA should not adopt an indentification for SUA similar to that implemented by Canada. Furthermore, AOPA commented, the elimination of existing airspace names, airspace subcategories, and airspace acronyms should be a product of any reclassification effort if simplification is to be achieved. It is entirely too late, AOPA commented, for a unilateral U.S. implementation to have any significant influence on the ICAO VFOP recommendations, and the proposal's goal of international commonality will be difficult to achieve. AOPA concluded that there is no reason to go foward with rulemaking that does not contribute to that goal.

An FAA representative, as a member of the VFOP, met with other VFOP members in a working-group-of-the-whole conference in October 1985 and with the complete VFOP in July 1986 in Montreal. Also in attendance were the representatives of Canada, United Kingdom, Republic of Germany, Australia, New Zealand, France, U.S.S.R., and various representatives of international user organizations. Of concern to some of the members of the VFOP working group was the U.S. airspace classification proposal contained in Notice No. 85–5 and the adopted Canadian airspace classification system. The concerns were for the United States and Canadian deviations from the VFOP's previously adopted airspace classification recommendations. The working group reviewed various recommendations of individual members; however, it basically sustained the previously adopted recommendations. The VFOP's recommendations have been circularized as an official ICAO proposal to its various member states.

The FAA reviewed the VFOP recommendations and recognized that its original proposals would have to be modified in order to achieve the stated goals of international airspace reclassification. The required modifications, as reflected in this notice, are relatively few and the FAA views them as being in the spirit of the NAR recommendations that precipitated the original proposals.

While one commenter believed that changing statute-mile measurements to nautical-mile measurements appeared to be a change for change's sake, AOPA and another commenter generally supported the aspects of the proposal to standardize the dimensions of air traffic areas, control zones, and surface areas of ARSA's. AOPA's support was qualified, however, by the condition that the ceilings of these airspace areas

would be established at 3,000 feet above the surface. The FAA proposes to establish those ceilings at 4,000 feet above the surface. Additionally, AOPA objected to the aspects of the proposal which would change airspace lateral dimension descriptions from statute miles to nautical miles because it believed the proposal would result in an increase in the size of the affected airspace; e.g., an air traffic area changing from a 5-statute-mile radius from the airport to a 5-nautical-mile radius would add airspace to that air traffic area. AOPA recommended that the FAA consider designating any future air traffic area with a 4-nautical-mile radius which would represent only an 8 percent decrease in radius and 15 percent decrease in area size. AOPA also stated that it favors using a 4-nautical-mile radius control zone for new locations and retention of existing control zone sizes except where significant advantages can be shown to result from change.

The FAA is convinced that safety is enhanced by standardization and is proposing to adopt the NAR recommendations to describe airspace assignments using nautical-mile measurements. Accordingly, the FAA is proposing to convert each control zone from statute-mile measurements to equivalent nautical-mile measurements; e.g., one statute mile would become .87 nautical mile. Further, the FAA no longer believes that there is a need to universally describe a control zone in terms of a 5-mile radius. In some cases, this airspace may be excessive, while in others it may be insufficient to contain instrument procedures.

Adoption of the aspects of this proposal dealing with control zones would eventually lead to the elimination of control zones as an airspace classification. During the transition, prior to the elimination of control zones, the FAA would promulgate rules at the regional level to describe control zones in terms of required airspace. This procedure is consistent with the current practice of establishing and describing control zones.

Further, this notice proposes to amend the operating rules of part 91 associated with operations in an air traffic area to specify the rules for operations within specific classes of airspace. The control zone(s) and surface area associated with each TCA and ARSA would be subjects of individual rulemaking actions designed to make those areas standard in size except as required by topography and local conditions. This is viewed as a transitional step leading to the elimination of control zones as an airspace classification. Additionally, a control zone with an operating control tower, at locations other than surface areas of TCA's or ARSA's, would be reclassified as Class D airspace. For the most part, the operating requirements currently applicable to an airport traffic area would apply to Class D airspace. As a result, the term "airport traffic area" would become superfluous and is proposed to be eliminated. The two-way radio communications requirement for operations to or from the primary airport is extended to include operations to or from a satellite airport. Control zones at locations without operating control towers would be reclassified as Class E airspace and the existing rules for operating in that airspace would effectively remain unchanged.

Several commenters, including the National Business Aircraft Association (NBAA), endorsed the proposals. ALPA objected to the proposal on the grounds that the proposed airspace reclassification would be as confusing as the current system. ALPA's view was shared by another commenter who was of the opinion that the proposal, if adopted, would produce more confusion rather than simplification. Further, ALPA stated that the task group did not make a specific recommendation urging the United States to reclassify its airspace.

The FAA recognizes that the NAR Task Group did not specifically urge the FAA to adopt their recommendations; however, the task group did recommend the FAA pursue their recommendations in the light of the Canadian airspace reclassification and the work being done by the ICAO in the airspace classification area. Additionally, the FAA recognizes that there could be potential for confusion if the reclassification were to be accomplished as presented in the ANPRM's because of the significant differences in the ICAO and the Canadian approaches. As mentioned above, the FAA has modified the proposals by aligning the airspace types with the ICAO approach.

ALPA also commented that the classification of ARSA's remains unresolved. AOPA recommended in its comments that the FAA classify an ARSA as Class C airspace. AOPA also suggested that the FAA specify that terminal radar service areas (TRSA) would continue to exist only on an interim basis, until full implementation of the ARSA Program is achieved.

Under this proposal, ARSA's would be reclassified as Class C airspace; however, each TRSA-to-ARSA conversion would be accomplished under separate rulemaking actions. Any remaining TRSA would be a candidate for disestablishment.

ALPA commented that the ANPRM failed to indicate how the FAA would ensure that all pilots would acquire the basic knowledge to operate safely in a reclassified airspace system. The Experimental Aircraft Association (EAA) commented that it was of the opinion that the airspace classification would be a burden on pilots and flight schools but a boon to textbook and chartmakers. However, AOPA commented that it is convinced that implementation of a standardized airspace classification could be in the best interest of all users of the NAS and that the incremental cost of implementing the proposal is insignificant when compared to the obvious benefits in reduced complexity. AOPA also stated that the cost impact would be minimal to pilots and other aviation-related activities as much of that reeducation would be accomplished by voluntary efforts of the aviation press. AOPA encouraged the FAA to utilize safety seminars, FAA General Aviation News, and direct mailings to describe and detail the new airspace classification system to the active pilot population.

In the event the FAA adopts the proposals contained in this notice, appropriate educational efforts similar to those recommended by the AOPA would be completed prior to the effective date of any final rule dealing with the reclassification of airspace. A draft implementation plan has been placed in Docket No. 24456 and it addresses the principal areas upon which the FAA would concentrate its educational efforts.

ALPA objected to the aspect of the proposal that would allow special VFR (SVFR) operations at some TCA locations where SVFR is currently prohibited by § 93.113. ALPA stated that if such a provision were to be adopted, then safety would be degraded.

The regulation in part 93 that prohibits SVFR operations in specific control zones is not proposed to be changed except for its incorporation into part 91. SVFR operations would continue to be prohibited at those locations listed in § 93.113 if the proposals in this notice are adopted.

EAA commented that the current plain language airspace description system is a well understood system, and since English is the international aviation language, the ICAO airspace classification system should be in plain English.

Any airspace reclassification adopted in the United States would, of course, be

based on the English language. While one of the goals of this notice is to increase international commonality of classifications, ICAO rules and conventions are not proposed nor established through this or any other U.S. rulemaking proposal or action.

EAA commented that it sees no benefit in allowing ultralight operations above 3,000 feet above the surface in what is control zone airspace under the present airspace structure but what could be classified under the proposed airspace reclassification as "general" controlled airspace.

The provisions of part 103 which restrict ultralight vehicle operations in any TCA, ARSA, air traffic area, and PCA would remain in effect under both proposals contained in Notice Nos. 85–4 and 85–5. This means that, under these proposals an ultralight vehicle could continue to operate above these airspace areas provided the airspace above the area is "general" controlled airspace. The proposal in this notice regarding ultralights merely changes the language of part 103 to reflect the proposed new airspace designations. This notice does not propose to change the existing rules for operating ultralights except that which occurs due to the proposed use of 4,000 feet above the surface as a ceiling for Classes D and E surface areas.

EAA also suggested that the proposed distance from cloud minimums for operations in TCA airspace (clear of clouds) would be feasible only if proposed ATC separation standards were in effect in that airspace.

The FAA has not proposed any new separation standards in Notice Nos. 85–4, 85–5, or 85–15. Currently, ATC provides Stage III separation service in TCA's and is planning to continue to provide similar services in the reclassified TCA airspace.

AOPA commented that the combining of air traffic areas, ARSA's, TRSA's, and control zones into Class C airspace would result in the FAA applying the more restrictive requirements of these types of airspace to the currently less restrictive airspace. For example, the communications requirements associated with an ARSA would also become associated with a simple air traffic area or control zone.

The proposals, if adopted as presented in the notices, would require a pilot to establish and maintain two-way radio communications with ATC prior to operating in the reclassified airspace of an airport traffic area with an operating control tower regardless of the operation being planned or conducted in that airport traffic area.

This aspect was explicitly recommended by the NAR Task Group. However, the FAA has modified its proposals concerning Class C airspace to classify only those control zones associated with ARSA's as Class C airspace because of the commonality of air traffic services provided in that airspace. This means that if this proposal is adopted the lateral boundaries of the surface area of an ARSA, associated control zone, and associated air traffic area would be reviewed and appropriately adjusted so that Class C airspace, which would replace these areas, would be represented on charts by a single "line." However, such actions would be accomplished under separate airspace rulemaking proposals. Further, other control zones currently associated with air traffic areas, but not associated with an ARSA or TCA, would become Class D airspace. As recommended by the NAR task group, the same two-way radio communications requirement of proposed Class C airspace would apply to Class D airspace. The services presently provided in air traffic areas would continue to be provided but within the entire Class D airspace area.

AOPA stated that the FAA's discussion of SUA in the proposal was misleading in regard to the statement that "* * * ATC separation service is not provided between aircraft operating in SUA."

The FAA acknowledges that the statement was partially incorrect. Appropriate separation in SUA would be provided for operations conducted under IFR in controlled airspace. However, ATC does not route nonparticipating IFR traffic through an active SUA.

AOPA commented that the proposal incorrectly implies that there is a further requirement for a pilot to obtain an ATC authorization before overflying an air traffic area.

Since an overflight operation could be construed as an operation conducted above an air traffic area, the statement in the proposal addressed by AOPA could be misunderstood. Section 91.85(b) limits operations within an air traffic area to those conducted to or from an airport in the air traffic area; thus, any operation conducted through an air traffic area for any other purpose, including transiting or "overflights" may be conducted only under an ATC authorization.

ALPA commented that the charting of a reclassified system would be a tremendous and costly undertaking which would take years to accomplish. The FAA does not agree with this assertion. The projected costs and implementation period are discussed below in a summary of the draft regulatory evaluation and in more detail in the regulatory evaluation document contained in the docket.

ALPA commented that it strongly supports the terminal airspace proposals contained in Notice No. 85–4 as a positive step toward standardization and simplification of the ATC system, except for the NAR recommendation to change the name of an air traffic area to control tower area. Stating that while the recommended name change would be more indicative of the area and its applicability, ALPA suggested that the change appears to be a change for change's sake and that it would involve considerable pilot reeducation. AOPA also objected to the proposed term "control tower area," as it believed that the resulting abbreviation, "CTA," is in common use internationally to represent a type of controlled airspace. However, EAA commented that it supports the proposal to change the name of an air traffic area to a control tower area.

The FAA recognizes the potential for some confusion that would be associated with the abbreviation for the term "control tower area" (CTA) and the international abbreviation for the term "control area" (CTA). However, as stated previously, the FAA is proposing to eliminate the term "airport traffic area, " and to reclassify such airspace according to the type of airspace for which the airport qualifies. This notice does not propose to adopt the term "control tower area."

AOPA objected to the aspect of the proposals that would limit the application of the SVFR provisions of § 91.107, when applied within the surface area of a TCA (Class B airspace), to the airspace below 3,000 feet above the surface within 5 miles of the primary airport. Instead AOPA suggested that SVFR operations should be authorized in Class B airspace within the entire surface area of the TCA up to 3,000 feet above the surface.

The FAA agrees with the AOPA comment and has modified the proposal so that SVFR operations could continue to be authorized by ATC in portions of the surface areas of Class B, C, D, or E airspace as specified in an ATC clearance, provided SVFR operations are conducted utilizing the appropriate required equipment and are not prohibited by § 93.113.

AOPA objected to the proposed definition of SVFR referring to Class B, C, or D terminal airspace, and which, AOPA stated, implies that there is also Classes B and C en route airspace. AOPA recommended that airspace class

identifiers be constructed so as to eliminate the need to relate airspace to terminal or en route designations. AOPA also suggested that the NAR recommended changes to the VFR Minima tables in §§ 91.105 and 103.23 which associate the proposed Class B airspace cloud clearance minima above and below 10,000 feet MSL with the terms "en route" or "terminal," are unnecessary. AOPA suggested that the FAA delineate the different minima at 10,000 feet MSL and in this way serve the objective of simplification and contribute to the achievement of commonality.

Additionally, AOPA commented that while it generally supports the proposed pilot certification and qualification requirements for conducting operations in a reclassified airspace system, it objected to the implication that the pilot qualification requirements for operations in Class C airspace would only apply to operations in Class C terminal airspace. This implication, AOPA suggested, further implies that there is also en route Class C airspace.

The FAA partially agrees with the AOPA comments and is proposing airspace classifications and associated VFR minima tables that refer only to the appropriate airspace classification and the differing requirements of Class E airspace above and below 10,000 feet MSL. While Classes B, C, and D airspace are inherently terminal airspace classifications, the terms "en route" and "terminal" are not used to describe airspace in this proposal.

AOPA commented that the current 5-mile visibility requirement for operations conducted in controlled airspace above 10,000 feet MSL does not apply at and below 1,200 feet above the surface, and that Notice No. 85–5 would delete this exclusion. AOPA suggested that this exclusion be retained.

The proposal in Notice No. 85–5 would simplify the visibility requirements by associating them with operations in specific airspace classifications. The surface to 1,200 feet above the surface exclusion would not apply in proposed designations of Classes A, B, C, and D airspace in order to maintain uniformity of operations within those airspace areas. However, under the proposal in this notice the exclusion would continue to apply to Class E airspace.

AOPA objected to the different ceilings for the Class C airspace designations such as 4,000 feet above the surface for ARSA designations, and 3,000 feet for the other Class C airspace designations that would replace the present air traffic areas and control zones. Another commenter suggests that ARSA's be classified as Class C airspace and that the ceiling of all Class C airspace be 3,000 feet above the surface.

The FAA agrees that ARSA's should be classified as Class C airspace and this proposal reflects that agreement. Additionally, for the sake of uniformity of airspace designations, the FAA is proposing that the ceilings of Classes C, D, and E airspace areas that replace control zones be designated at the MSL equivalent of 4,000 feet above the elevation of the airport for which the airspace is designated. In regard to a control zone for a TCA primary airport, such airspace would be replaced with Class B airspace designated to the surface. However, the ceiling would be that which was designated for the entire TCA.

While, AOPA commented that it generally supports the criteria proposed in Notice No. 85–5 for selecting candidate locations for conversion from Class C to Class B, it objects to the language in Notice No. 85–5 which suggests that the Department of Defense would provide the criteria for making military airfields candidates for Class B airspace. AOPA suggested that the FAA establish, and make public, clear criteria based on operations and other factors, against which military Classes B and C airspace designations could be evaluated for implementation or continuation.

While the FAA has published criteria for the establishment of an ARSA and a TCA, there are no plans to establish similar criteria for the classes of airspace. Under this proposal, any class of airspace could be designated at a given location or area. For example, Class B airspace could be established in the en route structure and Class A airspace could be established in a terminal environment. However, in any case each such action would have to be accomplished individually under the appropriate rulemaking procedures.

AOPA commented that the floors of "general controlled airspace," should be made consistent with the floors of the similarly designated Canadian airspace by excluding the airspace below 3,000 feet above the surface except for the airspace presently designated as control zones and transition areas. As discussed herein above, this aspect was addressed in Notice No. 88–2 but dropped from the final rule and may be the subject of a separate proposal to follow this notice. For the purpose of the airspace reclassification proposal, the FAA did not propose to establish a common base for controlled airspace as suggested by AOPA and as exists in Canada. Canada is currently reviewing its airspace structure including the established common base of controlled airspace toward reaching commonality with the U.S. system and ICAO planning.

EAA suggested that the total number of TCA's be reduced by redesignating some TCA's as ARSA's. By doing this, EAA stated, pilots would benefit because there would no longer be a transponder requirement in the affected airspace.

TCA's are established to provide more efficient control in terminal areas where there is a large volume of air traffic and where a high percentage of that traffic is large turbine-powered aircraft. Therefore, the elimination of some TCA's would create a substantial adverse impact on the safe and efficient control of air traffic in those high volume terminal areas. Further, Amendment No. 91–203 requires the use of Mode C transponders in ARSA's by December 31, 1990.

The Department of the Navy, Office of the Chief of Naval Operations (CNO) commented that it had no objections to the proposed terms for use in describing international airspace designations for clarification purposes.

However, the CNO did state that it would view any change to existing airspace boundaries, regulatory altitudes, etc., as an FAA initiative to encroach upon airspace historically reserved for Department of Defense use.

Under Executive Order (E.O.) 10854, the FAA may not designate controlled airspace in international airspace without first consulting with the Departments of State and Defense. While this proposal would not in itself enlarge controlled airspace outside of the United States, it would amend the regulations that are used to establish/alter airspace descriptions over the high seas. However, the actual establishment or alteration of airspace that is under the auspices of E.O. 10854 would only take place after appropriate consultation with the Departments of State and Defense.

ALPA commented that the NAR recommendations dealing with adopting the term "offshore control area," establishing a uniform base altitude for such areas, and the naming of offshore control areas are practical and reasonable and suggested that the FAA further pursue the recommendations. ALPA suggested that the FAA await final disposition of the NAR recommendations dealing with reclassifying the U.S. airspace structure until further consideration is given to including airspace designations outside the United States. However, AOPA suggested that the proposal be combined

with the proposal dealing with U.S. airspace reclassification.

In the interest of standardization and simplification, the FAA is proposing to reclassify airspace designations outside the United States as Class E airspace except where otherwise designated, as in TCA's (Class B airspace), ARSA's (Class C airspace), and control zones with operating control towers (Class D airspace) that extend outside of U.S. airspace.

The Air Transport Association (ATA) commented that it concurred with the proposals dealing with the designation of controlled airspace outside the United States provided there was no linking of § 91.70 provisions with the proposal. Currently § 91.1 makes § 91.70(c) applicable to U.S.-registered aircraft operations conducted in airspace outside the United States; i.e., indicated airspeeds greater than 200 knots are not permitted in the airspace underlying a TCA. This notice does not propose to modify the applicability of § 91.70 to operations outside the U.S.

The Air Traffic Control Association (ATCA) commented that it believes the proposal dealing with airspace designations outside the U.S. would enhance safety by reducing the likelihood of misunderstanding and that costs should be reduced by a resulting decrease in the amount of printed matter and required revisions. While stating that it believed that small businesses, non-profit organizations, or governmental jurisdictions would not be significantly impacted, ATCA was unsure of the cost impact on pilots and other related personnel. However, ATCA believes that such impacts could be minimized if adequate advance notice of changes were given prior to implementation.

The FAA will not implement any general reclassification of airspace until it is convinced the using public and its own staffs are thoroughly familiar with the changes.

ATCA recommended that the FAA develop any required charting changes in consultation with the affected users prior to issuing an NPRM.

The FAA believes that changes to existing charting specifications will be minimal and not of sufficient substance to warrant consultation with users prior to issuing an NPRM. However, if the FAA subsequently finds it necessary to produce prototype charts containing such changes, then copies would be made available for review and comment.

Discussion of Pertinent NAR Recommendations

The full text of the NAR recommendations germane to this proposal are contained in Notice Nos. 85–4, 85–5, and 85–15 as well as in the appropriate NAR staff studies. While review of these documents is not necessarily a prerequisite for understanding the proposed rules contained in this notice, interested parties may elect to review these relevant documents with this notice. A copy of each relevant staff study is in Docket No. 24456.

NAR 1–5.2.1 and 1–5.2.2—Airspace Reclassification. The NAR Task Group recommended that the FAA consider reclassifying its airspace system by either adopting the Canadian airspace classification system or one similar to it. The group suggested further that such consideration should be accomplished under the NAR with appropriate industry participation.

The FAA accepted these recommendations by including them as topics of the subtask groups under NAR Task Group 1–7.

NAR 1–7.1.1 and 1–7.1.2—Airspace Reclassification. The NAR Task Group recommended that the FAA and NAR pursue an airspace reclassification concept and to utilize the airspace reclassification model developed by Task Group 1–7.1.

Note: Task Group 1–7.1's Recommended Airspace Classification Model, appears in Appendix B of Task Group 1–7.1 Staff Study and a copy of which is in the public docket. For the purpose of this NPRM, the group's airspace model was utilized in developing Table 1—Airspace Classes.

The FAA has accepted these recommendations by virtue of issuing Notice No. 85–5 and the proposals contained in this notice.

NAR 1–7.2.2—TRSA Replacement. This recommendation would require a pilot, operating an aircraft in the class of airspace adopted for ARSA's that had replaced TRSA's, to participate in the ATC services provided in that class of airspace.

Note: While not established under any regulatory process, a TRSA generally consists of airspace already established under part 71 wherein the FAA provides radar vectoring, sequencing, and separation on a full-time basis to all aircraft operating under IFR and participating aircraft operating under VFR.

The FAA has accepted this recommendation as an aspect of this proposal.

NAR 1–7.2.4—SVFR Limits. This recommendation sought to keep the operational provisions of SVFR as applicable in the class(es) of airspace adopted for control zones. However, it would limit the application of SVFR to that airspace below 3,000 feet above the surface within a 5-mile radius of the affected airport.

Under this proposal all control zones would be replaced by Classes B, C, D, and E surface areas. Under procedures that would be developed for SVFR, a controller would limit the effectiveness of a SVFR clearance to that airspace below 4,000 feet above the surface. For example: "Cessna 234V cleared out of Class B (or C, or D, or E) airspace 10 miles west, maintain special VFR at or below 2,500 feet, etc." The FAA has opted for 4,000 feet above the surface versus 3,000 feet, as recommended by the task group, in order to promote standardization with the ceilings of ARSA's and with the proposed vertical limit of the Class E surface area prohibition, below which ultralight operations would have to be operated under an ATC authorization.

Further, the FAA disagrees with the aspect of the NAR recommendation that would limit SVFR to that airspace within 5 miles of the airport. The FAA has chosen to limit the effectiveness of SVFR to the lateral boundaries of the surface area as in most cases, this would be the point where a pilot would likely encounter uncontrolled airspace and if improved meteorological conditions have not been encountered, the pilot could continue flight in that airspace under the same meteorological conditions as authorized under a SVFR clearance. Also, many TCA's have surface areas that extend beyond 5 miles. A mandatory SVFR clearance limit of 5 miles from the airport could create situations whereby a pilot would reach 5 miles and not encounter visual meteorological conditions but would require an IFR ATC clearance to proceed further or another SVFR clearance to return to the airport. The FAA believes it more efficient to allow the effectiveness of a SVFR clearance to extend to the boundaries of controlled surface area to enable a pilot to continue flight, if desired by the pilot and otherwise permitted by the rules.

NAR 1–7.2.5—SVFR Definition. This recommendation would define the term "SVFR Conditions" in the Pilot/Controller Glossary (Airman's Information Manual) and in part 1 of the FAR as weather conditions which are less than basic VFR minima and in which some aircraft are permitted to operate under VFR.

This recommendation is accepted and proposed in this notice.

NAR 1–7.2.6—SVFR Definition. This recommendation would define the term "SVFR Operations" in the Pilot/Controller Glossary (Airman's Information Manual) as any operation conducted under VFR, in SVFR conditions, in accordance with an ATC clearance issued in response to a pilot's request to conduct such an operation.

This recommendation is accepted and will be reflected in appropriate publications if the proposed rules in this notice are adopted and issued as final rules.

NAR 1–7.2.7—Revise § 91.107. This recommendation would revise § 91.107 to eliminate the term "control zone."

This recommendation is proposed in this notice. The airspace of a control zone, under this proposal, would be classified according to the specific safety conditions, traffic density, and degree of ATC involvement needed to provide the appropriate level of safety in that airspace. Accordingly, the single term "control zone" would no longer be used in the FAR.

NAR 1–7.2.8—Revise § 103.17. This recommendation confirms the existing prohibition of ultralight operations in the classes of airspace adopted for control zones, air traffic areas, ARSA's, PCA's, and TCA's.

Effectively, this recommendation is accepted and the FAA proposes that ultralight operations would continue to be permitted in such airspace areas as they are under current rules. This notice proposes to amend § 103.17 to prohibit, unless otherwise authorized by ATC, ultralight operations in Classes A, B, C and D, and below 4,000 feet above the surface in any Class E airspace area that extends upward from the surface.

NAR 1–7.2.9—Recommended VFR Minima. This recommendation proposes that the VFR Minima tables in existing §§ 91.105 and 103.23 be revised to reflect a reclassified airspace system. Further, this recommendation would, for operations conducted under VFR in Class B airspace, reduce the minimum distance from clouds that a pilot must currently maintain to that of simply maintaining clear of clouds. However, the NAR Task Group recommended that the provisions of existing rules that contain exclusions to the basic VFR minima for helicopters *not* be amended.

This recommendation is effectively accepted including the reduction of cloud clearance minima for operations in a TCA (Class B airspace). The FAA views the relaxation of minima as an enhancement to safety as it has the potential to reduce the number of times that pilots operating under VFR would have to alter course or assigned heading/route in order to remain a specific distance from clouds.

NAR 1–7.3.1—Pilot Certification. The NAR Task Group recommended that the regulatory requirements for the present certification of student, private, instrument, commercial, and airline transport pilots be retained within any reclassified airspace system.

This recommendation is accepted and proposed in this notice.

NAR 1–7.3.2—Pilot Qualifications for Operations in PCA's. The recommendation confirms, as necessary, the existing requirements under § 91.97 that operations conducted in the class of airspace adopted for PCA's, must be conducted under IFR.

This recommendation is accepted and proposed in this notice.

NAR 1–7.3.3—Pilot Requirements for Operations in TCA's. This recommendation would reduce the existing minimum pilot qualifications for operations conducted under VFR in any TCA to that of a student pilot certificate.

This recommendation is effectively accepted but with certain conditions. These conditions are in accordance with the pilot qualification requirements of a related action. Amendment Nos. 61–80, 71–11, and 91–205, established all TCA's as one type and allows certain, limited student pilot activity in a TCA. These amendments established that a student pilot certificate will qualify such a pilot to receive authorization for flight through TCA's (proposed Class B airspace) or to or from most airports within the TCA's. However, student pilot operations to or from certain high traffic density airports in certain TCA's will continue to be prohibited as is the case under the current rule. In any case, all student flight activity will be required to be conducted under an appropriate logbook endorsement from his/her instructor, as well as under an ATC authorization.

NAR 1–7.3.4—Pilot Qualifications for Operations in Control Zones (with operating control towers,) ARSA's, and air traffic areas. This recommendation confirmed the existing rules pertaining to the minimum pilot qualifications for operations in the classes of airspace adopted for ARSA's, air traffic areas, and control zones with operating control towers.

This recommendation is accepted.

NAR 1–7.3.5—Pilot Requirements for Operations in Other Designated Controlled Airspace. This recommendation confirmed the existing rules pertaining to pilot qualifications for operating in the class(es) of controlled airspace adopted for airspace areas other than PCA's TCA's, ARSA's airport traffic areas, and control zones without operating control towers.

This recommendation is accepted.

NAR 1–7.3.6—Pilot Qualifications for Operations in Uncontrolled Airspace. This recommendation confirmed the existing rules pertaining to pilot qualifications for conducting operations in uncontrolled airspace.

This recommendation is accepted.

NAR 1–2.1.3—TCA Operating Requirements. The NAR Task Group recommended that the classification of TCA's, Group I and Group II, be eliminated and that all such airspace classifications be designated as one class of terminal airspace with the following equipment and flight requirements:

(a) A two-way radio capable of communicating with ATC on appropriate frequencies;

(b) Except for helicopter operations, a VOR or TACAN receiver;

(c) Except for helicopter operations conducted under a letter of agreement with ATC, a 4096 code transponder with Mode C automatic altitude reporting equipment;

(d) Except for student pilots with pilot logbook endorsement by a certified flight instructor that he/she has satisfactorily demonstrated ability to operate in this class of airspace, a private pilot certificate would be required as a minimum qualification;

(e) Large turbine-engine powered airplane to or from a primary airport would be required to operate at or above the designated floors while within the lateral limits of this class of airspace;

(f) Operations conducted in the airspace underlying this class of airspace would be limited to indicated airspeeds of 200 knots (230 mph) or less; and

(g) Operations within this class of airspace may, if authorized or required by ATC, be conducted at indicated airspeeds greater than 250 knots (288 mph);

This recommendation is effectively adopted, in part, through other FAA initiatives contained in Amendment Nos. 61–80, 71–11, 91–203, and 91–205.

Amendment Nos. 61–80, 71–11 and 91–205, which were published as a single rule, revised the classification and pilot and equipment requirements for conducting operations in TCA's. Specifically, that rule: (1) Established a single-class TCA; (2) required the pilot-in-command of a civil aircraft to hold at least a private pilot certificate, except for a student pilot who has received certain documented training; and, (3) eliminated the helicopter exception from

the minimum navigational equipment requirements. The provisions of that rule are being phased in with the final provisions becoming effective July 1, 1989. Amendment No. 91–203 eliminated the helicopter exception to the transponder and Mode C requirements for operating in a TCA effective July 1, 1989.

NAR 1–2.1.9—TCA Name. The NAR Task Group recommended that the term "Terminal Control Area" and current definition be retained and associated with this class of airspace.

In the interest of simplification of airspace terms and commonality with trends in the international theatre, the FAA believes it inappropriate to retain airspace names as well as the proposed class designator. Therefore, this recommendation is not adopted. TCA airspace would be classified as Class B airspace under this proposal.

NAR 1–2.3.1—Control Tower Area. The NAR Task Group recommended that the term "airport traffic area" or "ATA" be changed to "control tower area."

For the reasons stated for non-adoption of NAR Recommendation 1–2.1.9, this recommendation is also not adopted. The term "airport traffic area" would be eliminated under this proposal and replaced with the appropriate airspace depending on the requirements within the airspace and the ATC services available.

NAR 1–2.3.2—Two-way Radio Communications Requirements in Airport Traffic Areas. The NAR Task Group recommended that the two-way radio communications requirements for operations in the vicinity of an airport with an operating control tower be the same regardless of what entity operates the control tower. Furthermore, the NAR Task Group recommended amending § 91.87 of the FAR to clarify that pilots would be complying with the two-way communications requirements by contacting the ATC facility responsible for the airspace involved.

This recommendation is accepted and proposed in this notice.

NAR 1–2.3.4—Control Tower Area Definition. The NAR Task Group recommended that the definition of an airport traffic area (control tower area) in part 1 of the FAR be amended to make the airport reference point (geographic position) identical to that of a control zone, and to define the horizontal radius of that area as 5 nautical miles versus 5 statute miles.

This recommendation is not adopted. Airport traffic areas would be eliminated and replaced by the appropriate class of airspace designator as discussed previously.

NAR 1–2.3.5—Control Zone Airspace Limits. The recommendation would amend the definition of the term "control zone" in part 71 of the FAR to make its ceiling identical to that of an airport traffic area and to define that any horizontal radius used to describe a control zone to be normally 5 nautical miles versus normally 5 statute miles, and to require the use of nautical miles versus statute miles to describe any extension to a control zone.

This recommendation is not adopted. Under this proposal the term "control zone" would be eliminated. Each Class C and D airspace surface area description would be described with a "4,000-foot cap"; however, the cap would be expressed as an equivalent MSL altitude. As stated previously, the MSL altitude representative of 4,000 feet above the surface has been selected for the purpose of standardization and to continue to maintain the integrity of instrument operations in airspace that was originally designated to protect such operations. Class B and Class E airspace surface areas would not have a regulatory 4,000-foot cap. Instead, a Class B and E airspace surface area would have an effective "procedural cap" at a relatively equivalent altitude for the purposes of placing vertical limits on SVFR operations for the specific airport. A Class E surface area would effectively be capped at 4,000 feet above the airport elevation through the proposed regulatory language for part 103 which would prohibit ultralight operations below 4,000 feet above the surface in a Class E surface area within 5 miles of the airport. Additionally, each such airspace area would be expressed in nautical miles and reviewed as to whether its existing size should be increased or decreased to reflect the actual airspace needed to encompass instrument procedures.

NAR 1–2.3.7—Nautical Miles Versus Statute Miles. The NAR Task Group recommended that for the sake of standardization and consistency of aeronautical references, nautical miles (versus statute miles) be used in Federal Airway, control zone, and transition area airspace descriptions.

This recommendation is effectively accepted since under this proposal all airspace assignments in part 71 would be described with nautical-mile distances.

NAR 2–3.1.13—Global Positioning System (GPS) Use In TAC's. The NAR Task Group recommended that, following certification of GPS for use as a sole navigation aid, § 91.90 be changed to allow its use in TCA's.

This recommendation is not adopted. GPS is not anticipated to be certified for use as a sole NAVAID within the NAS in the near future. Although this recommendation is not adopted, should GPS or any other navigation system become certified for sole use within the NAS, such system(s) would be incorporated, as appropriate, at that time.

NAR 3–2.1.1—Offshore Airspace Nomenclature. This recommendation would rename the airspace descriptions in part 71 of the FAR for "additional control areas," designated in international airspace for which the United States has jurisdiction through ICAO regional agreement, as "offshore control areas."

This recommendation is essentially accepted and airspace designations outside the United States would be classified as an appropriate class of airspace as would be the domestic airspace.

NAR 3–2.1.2—Offshore Control Area Uniform Base. The NAR Task Group recommended that offshore control areas have a uniform base of 1,200 feet above the surface unless otherwise designated.

This recommendation would be implemented to the extent possible. However, floors of designated airspace outside the United States would continue to be established in concert with the Department of Defense requirements and in consultation with the Department of State.

NAR 3–2.1.3—Offshore Control Area Identification. The NAR Task Group recommended that offshore control areas be identified only as named areas, such as the current North Atlantic, Santa Barbara, etc., and that names of airspace descriptions such as Control 1142, Control 1154, Control 1217, etc., would be retained only for airspace descriptions that function as routes.

This recommendation is accepted. However, FAA procedures for naming an airspace description such as Control 1142 would be reviewed in concert with the ICAO-recommended practices for naming routes in offshore airspace.

NAR 3–2.1.4—Offshore Airspace Classification. The NAR Task Group recommended that the offshore control areas be classified as Class A, B, C, D, etc., as appropriate.

This recommendation is accepted and proposed in this notice. With few exceptions, most of the airspace would be classified as Class E airspace.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in

consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11, of the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, (61 Stat. 1180), state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposal

The proposed amendments would, in part, classify all airspace by use of a single alphabet character designation and thereby eliminate any need or reference to airspace assignments, except offshore control areas and SUA designations. Such changes are intended to achieve international commonality of airspace classification and, to that end, are based on several previously mentioned NAR recommendations as well as on the recommendations of the VFOP of the ICAO. The aspects of this proposal dealing with pilot certification and the proposed amendments to Parts 71, 75, 101, 103, 105, 121, 127, 137, and 171 are generally of an editorial nature to integrate the proposed airspace class designators into the respective regulations dealing with airspace assignments and operating rules. Most of the proposed amendments to part 91 are generally editorial to accommodate the proposed airspace reclassification. However, there are new requirements included in this proposal. It is of particular note that the requirements of §§ 91.70(c), 91.85, 91.87, 91.88, and 91.89 would be put upon operators of U.S. civil aircraft when operating over the high seas. Appropriate notes are interspersed with the actual proposed regulatory language to assist the reader in correlating FAA's regarding for the proposed change.

Regulatory Evaluation Summary

Benefit-Cost Analysis

The regulatory evaluation examines the costs and benefits of this NPRM to reclassify U.S. airspace. This proposed rule is intended to simplify airspace designations, achieve international commonality of airspace designations, standardize equipment requirements and associate appropriate pilot certification requirements as well as certain other requirements associated with each proposed airspace designation. These proposed changes are based primarily on recommendations from a NAR Task Group and would ultimately allow for increased safety and efficiency in the U.S. airspace and ATC system.

Costs

The FAA estimates the total incremental cost that would accrue from the implementation of this proposed rule to be $1.6 million (discounted, in 1986 dollars). Virtually all of the cost, which would be incurred by the FAA, would accrue from revisions to aeronautical charts, reeducation of the pilot community, and revision of air traffic controller training courses. Each one of these factors is briefly discussed below:

1. *Revisions to Aeronautical Charts*—Significant cost impact associated with this proposed rule would result from the requirement to change aeronautical charts. These modifications would be incorporated during the regular updating and printing of the charts. Therefore, all costs associated with printing aeronautical charts are assumed to be normal costs of doing business. However, because of dimension and symbol changes which would be needed, the symbology and depictions on the charts would need to be modified. This would require changes to the plates used to print the charts and would affect most of the aeronautical charts printed. The total cost of revisions to all of the charts is estimated by the National Oceanic Service based on the summation of the costs of revising each class of the airspace. The total discounted cost is estimated to be $1 million.

2. *Revision of Air Traffic Training Courses*—Manuals, textbooks, and other training materials used to educate FAA controllers would need to be updated to reflect the airspace reclassification. According to the FAA Aeronautical Center in Oklahoma City, lesson plans, visual aids, handouts, laboratory exercises, and tests would need to be revised.

The cost of these revisions is determined by multiplying the total revision time by the hourly cost of the course manager making the changes. The course managers are level GS–13 (step 5) employees with an average loaded annual salary of $54,000. Assuming 2,080 hours per year, their average loaded hourly salary is $26. The cost of the course changes is estimated to be $31,000 (discounted). An additional cost of $8,000 (discounted) would accrue as the result of a one-week seminar and associated travel. This seminar would be necessary to educate course managers about the airspace reclassification. The total cost that would accrue from this factor is estimated to be $39,000 (discounted).

3. *Reeducation of the Pilot Community*—Pilots who are presently certificated to operate in the U.S. airspace would need to become familiar with the airspace reclassification if this proposal is implemented. This would be accomplished through a variety of publications, videotapes, and pilot meetings.

The FAA is considering the production of a videotape that would be provided as a public service to industry associations such as AOPA, ALPA, and NBAA to inform them of the airspace reclassification. This videotape could be shown at various association meetings to help reeducate the pilot community. The FAA's Office of Public Affairs, estimates that the film would be 15 minutes in length and could be produced at a cost of $17,000 (discounted).

The FAA is also considering the publication of an Advisory Circular (AC documenting the new airspace classification. This AC would be mailed to each registered pilot. It is estimated that one man-week at a level GS–14 (Step 5) would be required to draft the AC and obtain approval in the sponsoring organization, and one GS–14

man-week would be required to obtain FAA approval of the AC. The cost associated with 2 man-weeks at a level GS–14 needed to prepare the AC is estimated to be $2,200 (discounted). This cost was estimated using the average loaded hourly salary of a level GS–14 employee which is $31.

After the AC is approved it would be mailed to approximately 761,000 registered pilots. Assuming that the AC would be 10 pages in length and the cost of reproduction is $0.05 per page, the cost of reproduction would be $335,000 (discounted). Assuming that the shipping and handling charge associated with each copy is $0.25, the cost of shipping and handling is $168,000 (discounted). The cost impact that would result from reeducating the pilot community was estimated by summing the cost of the videotape and the AC, described in the preceding paragraphs. This estimated cost impact is $522,000 (discounted).

4. *Equipage with Two-way Radio*—The NPRM would require that aircraft operators in control zones with operating control towers (Class D airspace) be capable of two-way radio communications. Currently, pilots operating to or from an airport having a federally operated control tower must maintain two-way radio communications with the control tower. However, this is not a requirement at satellite airports or at airports with non-federally operated towers. According to NAR Task Group 1–2.3, this inconsistency causes confusion for pilots. Thus the proposal includes the task group recommendation that two-way radio communications be required at all airports with control towers.

According to the *General Aviation Activity and Avionics Survey* (December 1987), the aircraft not equipped with two-way radios are primarily operated for personal, aerial application, aerial observation, and other work use. These four categories account for 133,366 of the 220,044 active general aviation fleet, or about 61 percent. The greatest number of these aircraft fall into the personal use category. According to the survey, an estimated 90 percent of personal use aircraft are equipped with two-way radios.

It can be assumed that an estimated 10 percent which are not equipped with two-way radios are operating in airspace where this equipment is not required. Also, 70 percent of the aircraft used for aerial application are not equipped with two-way radios. However, this change should not affect aerial application aircraft since the FAA plans to continue to authorize the operations in Class D airspace. Based on these assumptions and on the FAA's intention to continue to authorize such aircraft operations at satellite airports in Class D airspace without two-way radio requirements, this proposed change would have no cost impact on the aviation community.

Benefits

This proposed rule is expected to generate benefits in the form of enhanced safety and operational efficiency to the aviation community. These benefits are briefly described, in qualitative terms, below.

1. *Increased Safety Due to Better Understanding and Simplification*—The FAA believes that the simplified classification in this proposal would reduce airspace complexity and thereby enhance safety. This proposed airspace reclassification mirrors the proposed ICAO airspace designations.

This propopsal would increase safety in the United States since foreign pilots operating aircraft in U.S. airspace would be familiar with the airspace designations and classification system.

Another simplification which would help to increase airspace safety is the change that would correlate the class of controlled airspace currently termed a control zone to the airspace of the surrounding area. Presently, there are several types of designated airspace around an airport which makes it difficult for pilots and controllers to determine how the areas are classified and which requirements apply. After the reclassification the terminology would be more explanatory.

The conversion of statute-mile designations to nautical mile designations is intended to further simplify operations. Since the instruments on-board the aircraft are calibrated in nautical miles and aviation charts have representations in nautical miles, this change would eliminate the need for pilots to convert between nautical and statute miles. This simplification would help pilots and controllers to be better able to understand the airspace designations in part 71.

2. *Reduced Minimum Distance from Cloud Requirement*—This proposed airspace reclassification would designate TCA's as Class B airspace. The VFR minimum distance from clouds requirement in this airspace would also change. Currently this distance is 500 feet below, 1,000 feet above, and 2,000 feet horizontal. In Class B airspace, it is proposed that this minimum distance from clouds be "clear of clouds." This change would afford VFR traffic increased opportunities to fly in Class B airspace in more types of weather than they currently have in a TCA. This would not be a threat to safety since all aircraft operating in Class B airspace are provided with the appropriate separation.

3. *Operation of Ultralight Vehicles*—This NPRM would require one operational change regarding ultralight vehicles. The proposal incorporates NAR Task Group 1–7.2's recommendation to change the regulation pertaining to operations under part 103 to reflect the airspace reclassification terminology and adds reference to 4,000 feet above the surface as the floor of such operations over Class C, D, and E airspace surface areas. This is consistent with the proposed revision to the current 3,000 feet above the surface ceiling of airport traffic areas (proposed Class D) and control zones (proposed Class E surface area).

Conclusion

Despite the fact that benefits are *not* quantifiable in monetary terms, the FAA, nonetheless, concludes that the benefits of this proposal would outweigh its expected costs.

The Regulatory Evaluation that has been placed in the docket contains additional information related to the costs and benefits that are expected to accrue from the implementation of this proposed rule.

International Trade Impact Statement

Since this proposal would not affect airspace outside of the jurisdiction or effective control of the United States, it would not impose any new operating requirement in foreign or international airspace. As such, it would have no affect on the sale of foreign aviation products or services in the United States, nor would it affect the sale of U.S. products or services in foreign countries.

Federalism Statement

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus, in acccordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not

unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities." The small entities which could be potentially affected by the implementation of this notice are pilot schools (SIC 8299). Training materials used in the courses offered by the pilot schools would have to be modified to reflect the changes of the airspace reclassification. However, it was determined the pilot schools would not incur any cost impact since the documents they use would be updated as a normal course of business. Thus, it has been determined that there would be no cost impact to those pilot schools classified as small entities. Therefore, the FAA certifies that this proposed rule, if promulgated, would not have a significant cost impact on a substantial number of small entities.

The FAA has determined that this proposed rule would not be a "major rule" under E.O. 12291. The FAA has determined that this proposal is a "significant regulation" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Reporting and recordkeeping requirements.

14 CFR Part 71

Airspace, Navigation (air).

14 CFR Part 75

Airspace, Navigation (air).

14 CFR Part 91

Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Zimbabwa.

14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air), Penalties, Reporting and recordkeeping requirements.

14 CFR Part 101

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 103

Aircraft, Aviation safety, Recreation and recreation areas.

14 CFR Part 105

Aircraft, Aviation safety, Recreation and recreation areas, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 127

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 137

Agriculture, Aircraft, Aviation safety.

14 CFR Part 171

Air traffic control, Navigation (air), Reporting and recordkeeping requirements.

The Proposed Amendment

For the reasons set out in the preamble, the FAA is proposing to amend parts 1, 11, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 137, and 171 of the Federal Aviation Regulations as follows:

PART 1—DEFINITIONS OF ABBREVIATIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 1347, 1348, 1354(a), 1357(d)(2), 1372, 1421 through 1430, 1432, 1442, 1443, 1472, 1510, 1522, 1652(e), 1655(c), 1657(f); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Section 1.1 would be amended by removing the definition "airport traffic area," revising the definition of "controlled airspace," adding the definitions of "uncontrolled airspace," and "Special VFR conditions" in alphabetical order to read as follows:

§ 1.1 General Definitions.

* * * * *

Controlled airspace means airspace designated as Class A, B, C, D, or E airspace in Part 71 of this chapter and within which all aircraft may be subject to ATC.

* * * * *

Special VFR conditions mean meteorological conditions that are less than those required for basic VFR flight in controlled airspace and in which ATC may permit aircraft to operate for the purposes of departing from or arriving at an airport within controlled airspace.

* * * * *

Uncontrolled airspace means that portion of the navigable airspace which is not designated in part 71 as controlled airspace.

PART 11—GENERAL RULEMAKING PROCEDURES

* * * * *

3. The authority for Part 11 continues to read as follows:

Authority: 49 U.S.C. 1341(a), 1343(d), 1348, 1354(a), 1401 through 1405, 1421 through 1431, 1481, 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

4. Section 11.61 would be amended by revising (a)(1) and (c). The introductory text of (a) is republished for the convenience of the reader.

§ 11.61 Scope.

(a) This subpart establishes procedures for initiating, processing, issuing, and publishing rules and orders issued under 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), including—

(1) Designations of controlled airspace under part 71 of this chapter;

* * * * *

(c) For the purposes of this subpart, "Director" means the Executive Director for System Operations, the Associate Administrator for Air Traffic or, the Director, Air Traffic Operations Service or any person to whom the Director as delegated authority in the matter concerned.

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

5. The authority for Part 65 continues to read as follows:

Authority: 49 U.S.C. 1354, 1355, 1421, 1422 and 1427; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

6. Section 65.37 would be amended by revising (f) introductory text and (f) (2) to read as follows:

§ 65.37 Skill requirements: Operating positions.

* * * * *

(f) Each of the following procedures that is applicable to that operating position and is required by the person performing the examination:

* * * * *

(2) The terrain features, visual checkpoints, and obstructions within the surface area of controlled airspace designated for the airport.

* * * * *

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

7. For a discussion of changes to Part 71, see the Supplementary Information section of this document.

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

8. The authority for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

9. Section 75.13 would be revised as follows:

§ 75.13 Area routes above 18,000 feet MSL.

Each area route designated in Subpart D of this part consists of a direct course for navigating aircraft at altitudes between 18,000 feet MSL and flight level 450, inclusive, between the waypoints specified for that route.

PART 91—GENERAL OPERATING AND FLIGHT RULES

10. The authority for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by Pub. L. 100–223), 1422 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 State 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; Pub. L. 100–202; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

11. Section 91.1 would be amended by removing the reference to Special Federal Aviation Regulation No. 45–1 and revising 91.1 (a), (c) introductory text and (c)(1) to read as follows:

§ 91.1 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, this part describes rules governing the operation of aircraft (other than moored balloons, kites, unmanned rockets, and unmanned free balloons) within the United States, including the waters within 3 nautical miles of the U.S. coast.

(b) Each person operating an aircraft in the airspace overlying the waters between 3 and 12 nautical miles from the coast of the United States shall comply with Subpart A, 91.1 through 91.43, and Subpart B of this part.

(c) Each person operating a civil aircraft of U.S. registry outside of the United States shall—

(1) When over the high seas, comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation and with 91.70(c), 91.85, 91.87, 91.88, and 91.89 of Subpart B;

* * * * *

Note: Operations outside the U.S. within the vicinity of an airport would be required to comply with the appropriate rules for such operations.

12. Section 91.17(c)(4) would be revised to read as follows:

§ 91.17 Towing: gliders.

(a) * * *

(4) Before conducting any towing operation below 4,000 feet above the surface within the lateral limits of the surface area of controlled airspace designated for an airport, or before making each towing flight with such airspace if required by ATC, the pilot-in-command notifies the control tower. If a control tower does not exist or is not in operation, the pilot-in-command must notify the FAA flight service station serving that airspace before conducting any towing operations in that airspace.

* * * * *

13. Section 91.24 would be amended by revising paragraphs (b) and (c) to read as follows:

§ 91.24 ATC transponder and altitude reporting equipment and use

* * * * *

(b) *All airspace.* No person may operate an aircraft in the airspace described in paragraphs (b)(1) through (b)(5) of this section, unless that aircraft is equipped with an operable coded radar beacon transponder having either Mode 3A 4096 code capability, replying to Mode 3A interrogations with the code specified by ATC and intermode and Mode S interrogations in accordance with the applicable provisions specified in TSO C–112, and that aircraft is equipped with automatic pressure altitude reporting equipment having a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure altitude information in 100-foot increments. This requirement applies—

(1) *All aircraft.* In Class A and Class B airspace areas;

(2) *Effective July 1, 1989.* All aircraft in all airspace within 30 miles of an airport for which Class B airspace is designated (primary airport), from the surface upward to 10,000 feet MSL;

(3) *Effective July 1, 1989.* Notwithstanding paragraph (b)(2) of this section, any aircraft which was not originally certificated with an engine-driven electrical system or which has not subsequently been certified with such a system installed, balloon or glider may conduct operations in the airspace within 30 miles of a Class B airspace primary airport provided such operations are conducted—

(i) Outside any Class B or Class A airspace area; and

(ii) Below the altitude of the Class B airspace area ceiling or 10,000 feet MSL, whichever is lower; and

(4) *Effective December 30, 1990.* All aircraft—

(i) In Class C airspace, and

(ii) In all airspace above the ceiling and within the lateral boundaries of a Class C airspace area upward to 10,000 feet MSL; and

(5) *All aircraft except any aircraft which was not originally certificated with an engine-driven electrical system or which has not subsequently been certified with such a system installed, balloon, or glider*—

(i) In all airspace of the 48 contiguous states and the District of Columbia:

(A) *Through June 30, 1989.* Above 12,500 feet MSL and below the floor of a Class A airspace area, excluding the airspace at and below 2,500 feet above the surface.

(B) *Effective July 1, 1989.* At and above 10,000 feet MSL and below the floor of a Class A airspace area, excluding the airspace at and below 2,500 feet above the surface; and

(ii) *Effective December 30, 1990.* In the airspace from the surface to 10,000 feet MSL within a 10-mile radius of any airport listed in Appendix D of this part, excluding the airspace below 1,200 feet above the surface outside of the area in which Class E airspace is designated to the surface for that airport.

(c) *Transponder-on operation.* While in the airspace as specified in paragraph (b) of this section or in all controlled airspace, each person operating an aircraft equipped with an operable ATC transponder maintained in accordance with 91.172 of this part shall operate the transponder, including accordance with 91.172 of this part shall operate the transponder, including Mode C equipment if installed, and shall reply on the appropriate code or as assigned by ATC.

* * * * *

14. Section 91.43 would be amended by revising (c)(1)(i) to read as follows:

§ 91.43 Special rules for foreign civil aircraft.

* * * * *

(c) * * *

(1) * * *

(i) Radio equipment allowing two-way radio communication with ATC when it is operated in controlled airspace; and

* * * * *

15. Section 91.70 would be revised to read as follows:

§ 91.70 Aircraft speed.

(a) Unless otherwise authorized by the Administrator (or ATC in the case of operations in Class A or B airspace), no person may operate an aircraft below 10,000 feet MSL at an indicated airspeed of more than 250 knots (288 mph).

(b) Unless otherwise authorized or required by ATC, no person may operate an aircraft below 4,000 feet above the surface within Class A, B, C, or D airspace surface area at an indicated airspeed of more than—

(1) In the case of reciprocating engine aircraft, 156 knots (180 mph); or

(2) In the case of turbine-powered aircraft, 200 knots (230 mph).

(c) No person may operate an aircraft through a VFR corridor designated in Class B airspace, at an indicated airspeed of more than 200 knots (230 mph).

(d) If the minimum safe aircraft speed for any particular operation is greater than the maximum speed prescribed in this section, the aircraft may be operated at that minimum speed.

16. Section 91.71 would be amended by revising (c), (d), and (e) and by adding (f) to read as follows:

§ 91.71 Acrobatic flight.

* * * * *

(c) Below 4,000 feet above the surface within the lateral limits of the surface area of controlled airspace designated for an airport;

(d) Within 4 nautical miles of the center line of any Federal airway;

(e) Below an altitude of 1,500 feet above the surface; or

(f) When flight visibility is less than 3 statute miles.

* * * * *

17. Section 91.75 would be amended by revising paragraph (a) to read as follows:

§ 91.75 Compliance with ATC clearances and instructions.

(a) When an ATC clearance has been obtained, a pilot-in-command may not deviate from that clearance, except in an emergency, unless that pilot obtains an amended clearance. However, except in Class A airspace, this paragraph does not prohibit that pilot from canceling an IFR flight plan if the operation is being conducted in VFR weather conditions. When a pilot is uncertain of an ATC clearance, that pilot shall immediately request clarification from ATC.

* * * * *

18. Section 91.85 would be revised to read as follows:

§ 91.85 Operating on or in the vicinity of an airport.

(a) *General.* Unless otherwise required by part 93 of this chapter or unless otherwise authorized or required by ATC, each person operating an aircraft on or in the vicinity of an airport shall comply with the requirements of this section and the applicable requirements of this part for operating in specific classes of airspace.

(b) *Flap settings.* Except when necessary for training or certification, the pilot-in-command of a civil turbojet-powered aircraft shall use, as a final landing flap setting, the minimum certificated landing flap setting set forth in the approved performance information in the Airplane Flight Manual for the applicable conditions. However, each pilot-in-command has the final authority and responsibility for the safe operation of his airplane, and may use a different flap setting for that airplane if he determines that it is necessary in the interest of safety.

(c) *Minimum altitudes.* Each pilot of a large or turbine-powered airplane shall:

(1) Unless otherwise required by the applicable distance from cloud criteria, enter the traffic pattern at an altitude of at least 1,500 feet above the elevation of the airport and maintain at least 1,500 feet until further descent is required for a safe landing;

(2) When approaching to land on a runway served by an instrument landing system (ILS), shall, if the airplane is ILS-equipped, fly that airplane at an altitude at or above the glide slope between the outer marker (or point of interception of glide slope, of compliance with the applicable distance from clouds criteria requires interception closer in) and the middle marker; and

(3) When operating an airplane approaching to land on a runway served by a visual approach slope indicator, maintain an altitude at or above the glide slope until a lower altitude is necessary for a safe landing. Paragraphs (c)(2) and (c)(3) of this section do not prohibit normal bracketing maneuvers above or below the glide slope that are conducted for the purpose of remaining on the glide slope.

(d) *Direction of turns.* When approaching to land at an:

(1) *Airport with an operating control tower,* except when conducting a circling approach under part 97 of this chapter, each pilot of an airplane, shall circle the airport to the left.

(2) *Airport without an operating control tower,* each pilot of an airplane, shall make all turns of that airplane to the left unless the airport displays approved light signals or visual markings indicating that turns should be made to the right, in which case the pilot shall make all turns to the right.

(3) *Any airport,* each pilot of a helicopter shall avoid the flow of fixed-wing aircraft.

(e) *Takeoffs.* Each person departing from an airport in:

(1) *Any aircraft,* shall comply with the departure traffic pattern or departure procedure prescribed for that airport.

(2) *A turbine-powered aircraft,* shall, unless otherwise required by the prescribed departure procedure for that airport or the applicable distance from clouds criteria, climb to an altitude of 1,500 feet above the surface as rapidly as practicable.

(f) *Takeoff, landing, taxi clearance.* No person may, at any airport with an operating control tower, operate an aircraft on a runway or taxiway, or takeoff or land an aircraft, unless an appropriate clearance is received from ATC. A clearance to "taxi to" the takeoff runway assigned to the aircraft is not a clearance to cross that assigned takeoff runway, or to taxi on that runway at any point, but is a clearance to cross other runways that intersect the taxi route to that assigned takeoff runway. A clearance to "taxi to" any point other than an assigned takeoff runway is a clearance to cross all runways that intersect the taxi route to that point.

(g) *Noise abatement.* Where a formal runway use program has been established by the FAA, each pilot of a large or turbine-powered airplane assigned a noise abatement runway by ATC, shall use that runway. However, consistent with the final authority of the pilot-in-command concerning the safe operation of the aircraft as prescribed in § 91.3(a), ATC may assign a different runway if requested by the pilot in the interest of safety.

§ 91.87 [Removed]

19. Section 91.87 would be removed.

20. Section 91.88 would be revised to read as follows:

§ 91.88 Operations in Class C or D airspace.

(a) Except as provided in paragraph (b) of this section, each aircraft operation in Class C or D airspace shall be conducted in compliance with the following two-way radio communications requirements:

(1) *Arrival or through flight,* establish two-way radio communications with the ATC facility (including foreign ATC in the case of airspace designated in the U.S. for a non-U.S. airport) providing air traffic services prior to entering that airspace and thereafter maintain those communications while within that airspace.

(2) *Departing flight,* establish and maintain two-way radio communications with ATC prior to departing an airport within Class C and D airspace, except that for aircraft departing a satellite airport, two-way radio communications shall be established as soon as practicable after departing that satellite airport.

(b) An operator may deviate from any provision of this section under the provisions of an ATC authorization issued by the ATC facility having jurisdiction of the airspace concerned. ATC may authorize a deviation on a continuing basis or for an individual flight, as appropriate.

(c) Unless otherwise authorized by ATC, no person may operate an aircraft within a Class C airspace area unless that aircraft is equipped with the applicable equipment specified in § 91.24.

21. Section 91.89 would be revised to read as follows:

§ 91.89 Operations in Class A airspace

Each person operating an aircraft in Class A airspace shall conduct that operation under IFR and in compliance with the following:

(a) *Clearance.* Operations may be conducted only under an ATC clearance received prior to entering the airspace.

(b) *Communications.* Unless otherwise authorized by ATC, each aircraft operating in Class A airspace shall be equipped with a two-way radio capable of communicating with ATC on a frequency assigned by ATC. Each pilot shall maintain two-way radio communications with ATC while operating in Class A airspace.

(c) *Transponder requirement.* Unless otherwise authorized by ATC, no person may operate an aircraft within a Class B airspace area unless that aircraft is equipped with the applicable equipment specified in § 91.24.

(d) *ATC authorizations.* An operator may deviate from any provision of this section under the provisions of an ATC authorization issued by the ATC facility having jurisdiction of the airspace concerned. Requests for deviation from any provision of this section other than paragraph (c) of this section must be submitted in writing, at least 4 days before the proposed operation. ATC may authorize a deviation on a continuing basis or for an individual flight, as appropriate.

22. Section 91.90 would be revised as follows:

§ 91.90 Operations in Class B airspace.

(a) *Operating rules.* No person may operate an aircraft within a Class B airspace area designated in part 71 of this chapter except in compliance with the following rules:

(1) The operator must receive an ATC authorization prior to operation of the aircraft in that area.

(2) Unless otherwise authorized by ATC, each person operating a large turbine engine-powered airplane to or from a primary airport shall operate at or above the designated floors of the Class B airspace area while within the lateral limits of that area.

(3) Any person conducting pilot training operations at an airport within a Class B airspace area shall comply with any procedures established by ATC for such operations in that area.

(b) *Pilot requirements.* (1) No person may take off or land a civil aircraft at an airport within a Class B airspace area or operate a civil aircraft within a Class B airspace area unless:

(i) The pilot-in-command holds at least a private pilot certificate; or

(ii) The aircraft is operated by a student pilot who has met the requirements of § 61.95 of this chapter.

(2) Notwithstanding the provisions of paragraph (b)(1)(ii) of this section, no person may take off or land a civil aircraft at those airports listed in section 4 of Appendix D of this part unless the pilot-in-command holds at least a private pilot certificate.

(c) *Communications and navigation equipment requirements.* Unless otherwise authorized by ATC, no person may operate an aircraft within a Class B airspace area unless that aircraft is equipped with—

(1) An operable VOR or TACAN receiver (except for helicopter operations prior to July 1, 1989); and

(2) An operable two-way radio capable of communications with ATC on appropriate frequencies for that Class B airspace area.

(d) *Transponder requirement.* Unless otherwise authorized by ATC, no person may operate an aircraft in a Class B airspace area unless the aircraft is equipped with the applicable operating transponder and automatic altitude reporting equipment specified in paragraph (a) of § 91.24, except as provided in paragraph (d) of that section.

§ 91.97 [Removed]

23. Section 91.97 would be removed.

24. Section 91.105 would be amended by revising (a) and (b) to read as follows:

§ 91.105 Basic VFR weather minimums.

(a) Except as provided in §§ 91.105(b) and 91.107, no person may operate an aircraft under VFR when the flight visibility is less than, or at a distance from clouds that is less than that prescribed for the corresponding altitude and class of airspace in the following table:

Airspace class	Flight visibility	Distance from clouds
Class A	Not applicable	Not applicable.
Class B	3 statute miles	Clear of clouds.
Class C	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class D	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: below 10,000 feet MSL	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: at 10,000 feet MSL, and above	5 statute miles	1,000 feet below, 1,000 feet above, 1 mile horizontal.
Class G: Day	1 statute mile	Clear of clouds.

Airspace class	Flight visibility	Distance from clouds
Night	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Day and night: Except as provided by § 91.105(b).		

(b) *Class G. Airspace.* Nothwithstanding the provisions of paragraph (a) of this section the following operations may be conducted in Class G airspace at and below 1,200 feet above the surface:

(1) *Helicopter.* When the visibility is less than 1 mile during day hours or less than 3 miles during night hours, a helicopter may be operated clear of clouds if operated at a speed that allows the pilot adequate opportunity to see any air traffic or obstruction in time to avoid a collision.

(2) *Airplane.* When the visibility is less than 3 miles but greater than 1 mile during night hours, an airplane may be operated clear of clouds if operated in an airport traffic pattern within one-half mile of the runway.

* * * * *

25. Section 91.107 would be revised to read as follows:

§ 91.107 Special VFR weather minimums.

Except as provided in Appendix D of this part, the following special weather minimums and requirements apply to operations conducted to or from an airport in controlled airspace:

(a) Operations may be conducted only under an ATC clearance—

(1) Within the lateral limits of controlled airspace designated to the surface; and

(2) Except for helicopters, between sunrise and sunset (or in Alaska, when the sun is 6° or more above the horizon) unless:

(i) That person meets the applicable requirements for instrument flight under Part 61 of this chapter; and

(ii) The aircraft is equipped as required in § 91.33(d).

(b) Operations may only be conducted clear of clouds.

(c) Except for helicopters, operations may be conducted only when flight visibility is at least 1 statute mile.

(d) No person may take off or land an aircraft (other than a helicopter)—

(1) Unless ground visibility is at least 1 statute mile; or

(2) If ground visibility is not reported, unless flight visibility during landing and takeoff is at least 1 statute mile.

26. Appendix D of part 91 would be revised to read as follows:

Appendix D—Airports/Locations: Special Operating Restrictions

Section 1. Locations at which the requirements of § 91.24(b)(2) apply. The requirements of § 91.24(b)(2) apply below 10,000 feet above the surface within a 30-nautical-mile radius of each location in the following list:

Atlanta, GA (The William B. Hartsfield Atlanta International Airport)
Boston, MA (General Edward Lawrence Logan International Airport)
Chicago, IL (Chicago-O'Hare International Airport)
Cleveland, OH (Cleveland-Hopkins International Airport)
Dallas, TX (Dallas/Fort Worth Regional Airport)
Denver, CO (Stapleton International Airport)
Detroit, MI (Metropolitan Wayne County Airport)
Honolulu, HI (Honolulu International Airport)
Houston, TX (Houston Intercontinental Airport)
Kansas City, KS (Mid-Continent International Airport)
Las Vegas, NV (McCarran International Airport)
Los Angeles, CA (Los Angeles International Airport)
Miami, FL (Miami International Airport)
Minneapolis, MN (Minneapolis-St. Paul International Airport)
Newark, NJ (Newark International Airport)
New Orleans, LA (New Orleans International Airport-Moisant Field)
New York, NY (John F. Kennedy International Airport)
New York, NY (LaGuardia Airport)
Philadelphia, PA (Philadelphia International Airport)
Pittsburgh, PA (Greater Pittsburgh International Airport)
San Diego, CA (San Diego International Airport)
San Francisco, CA (San Francisco International Airport)
Seattle, WA (Seattle-Tacoma International Airport)
St. Louis, MO (Lambert-St. Louis International Airport)
Washington, DC (Washington National Airport)

Section 2. Airports at which the requirements of § 91.24(b)(5)(ii) apply. The requirements of § 91.24(b)(5)(ii) apply to operations in the vicinity of each of the following airports:

Logan International Airport, Billings, MT.
Hector International Airport, Fargo, ND.

Section 3. Locations at which special VFR is not authorized. The special VFR weather minimums of § 91.107 do not apply for the following airports:

Atlanta, GA (The William B. Hartsfield Atlanta International Airport)
Baltimore, MD (Baltimore/Washington International Airport)
Boston, MA (General Edward Lawrence Logan International Airport)
Buffalo, NY (Greater Buffalo International Airport)
Chicago, IL (Chicago-O'Hare International Airport)
Cleveland, OH (Cleveland-Hopkins International Airport)
Columbus, OH (Port Columbus International Airport)
Covington, KY (Greater Cincinnati International Airport)
Dallas, TX (Dallas/Fort Worth Regional Airport)
Dallas, TX (Love Field)
Denver, CO (Stapleton International Airport)
Detroit, MI (Metropolitan Wayne County Airport)
Honolulu, HI (Honolulu International Airport)
Houston, TX (Houston Interncontinental Airport)
Indianapolis, IN (Indianapolis International Airport)
Los Angeles, CA (Los Angeles International Airport)
Louisville, KY (Standiford Field)
Memphis, TN (Memphis International Airport)
Miami, FL (Miami International Airport)
Minneapolis, MN (Minneapolis-St. Paul International Airport)
Newark, NJ (Newark International Airport)
New York, NY (John F. Kennedy International Airport)
New York, NY (LaGuardia Airport)
New Orleans, LA (New Orleans International Airport, Moisant Field)
Philadelphia, PA (Philadelphia International Airport)
Pittsburgh, PA (Greater Pittsburgh International Airport)
Portland, OR (Portland International Airport)
San Francisco, CA (San Francisco International Airport)
Seattle, WA (Seattle-Tacoma International Airport)
St. Louis, MO (Lambert-St. Louis International Airport)
Tampa, FL (Tampa International Airport)
Washington, DC (Washington National Airport)

Section 4. Locations at which solo student pilot activity is not permitted. Pursuant to § 91.87(b), solo student pilot operations are not permitted at any of the following airports.

Atlanta, GA (The William B. Hartsfield Atlanta International Airport)
Boston, MA (General Edward Lawrence Logan International Airport)
Chicago, IL (Chicago-O'Hare International Airport)
Dallas, TX (Dallas/Fort Worth Regional Airport)

Los Angeles, CA (Los Angeles International Airport)
Miami, FL (Miami International Airport)
Newark, NJ (Newark International Airport)
New York, NY (John F. Kennedy International Airport)
New York, NY (LaGuardia Airport)
San Francisco, CA (San Francisco International Airport)
Washington, DC (Washington National Airport)
Andrews Air Force Base, MD

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

27. The authority for part 93 continues to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), 1424, the Metropolitan Washington Airports Act of 1986, Pub. L. 99–500; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

28. Part 93 would be amended by removing subparts I and Q entirely.

Note: Subpart Q would be removed and the special rules associated with the airports at Abbotsford, BC, and Sault St. Marie, ON, would no longer be needed as these rules would be codified into proposed § 91.88.

29. Section 93.151 would be amended by revising the introductory text to read as follows:

§ 93.151 Applicability.

This subpart prescribes special air traffic rules and communications requirements for persons operating aircraft, under VFR, below 3,000 feet within the lateral limits of the surface area of controlled airspace designated for Ketchikan International Airport, Alaska, excluding that airspace below 600 feet MSL and—

* * * * *

PART 101—MOORED BALLOONS, KITES, UNMANNED ROCKETS AND UNMANNED FREE BALLOONS

30. The authority for part 101 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 (as amended by Pub. L. 100–223), 1422 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; Pub. L. 100–202; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

31. Section 101.33 would be amended by revising paragraph (a) to read as follows:

§ 101.33 Operating limitations.

* * * * *

(a) Unless otherwise authorized by ATC, below 2,000 feet above the surface of a Class D airspace or within the lateral limits of a Class E airspace surface area;

* * * * *

PART 103—ULTRALIGHT VEHICLES

32. The authority for part 103 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421(a), 1422 and 1433; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

33. The reference to Special Federal Aviation Regulation No. 45–1 would be removed.

34. Section 103.17 would be revised to read as follows:

§ 103.17 Operations in certain airspace.

No person may operate an ultralight vehicle within Class A, B, C, or D airspace or below 4,000 feet above the surface within the lateral limits of a Class E surface area unless that person has prior authorization from the ATC facility having jurisdiction over that airspace.

35. Section 103.23 would be revised to read as follows:

§ 103.23 Flight visibility and cloud clearance requirements.

No person may operate an ultralight vehicle when the flight visibility or distance from clouds is less than that in the following table, as appropriate:

Airspace class	Flight visibility	Distance from clouds
Class A	Not applicable	Not applicable.
Class B	3 statute miles	Clear of clouds.
Class C	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class D	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: Below 10,000 feet MSL	3 statute miles	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Class E: At 10,000 feet MSL, and above	5 statute miles	1,000 feet below, 1,000 feet above, 1 mile horizontal.
Class G	1 statute mile	Clear of clouds.

PART 105—PARACHUTE JUMPING

36. The authority for Part 105 would continue to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1421; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

37. The reference to Special Federal Aviation Regulation No. 45–1 would be removed.

38. Section 105.19 would be revised to read as follows:

§ 105.19 Jumps in or into Class A, B, C, and D airspace.

(a) No person may make a parachute jump, and no pilot-in-command may allow a parachute jump to be made from that aircraft, in or into Class A, B, C, and D airspace, without, or in violation of, the terms of an ATC authorization issued under this section.

(b) Each request for an authorization under this section must be submitted to the nearest FAA air traffic control facility or FAA flight service station and must include the information prescribed by § 105.25(a).

§ 105.20 [Removed]

39. Section 105.20 would be removed.

§ 105.21 [Removed]

40. Section 105.21 would be removed.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

41. The authority for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485 and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

42. Section 121.347 would be amended by revising (a) introductory text and (a)(2) to read as follows:

§ 121.347 Radio equipment for operations under VFR over routes navigated by pilotage.

(a) No person may operate an aircraft under VFR over routes that can be navigated by pilotage, unless it is equipped with the radio equipment necessary under normal operating conditions to fulfill the following:

* * * * *

(2) Communicate with appropriate traffic control facilities from any point within the lateral limits of controlled airspace designated to the surface within which flights are intended.

* * * * *

43. Section 121.649 would be amended by revising (c) to read as follows:

§121.649 Takeoff and landing weather minimums: VFR: Domestic air carriers.

* * * * *

(c) The weather minimums in this section do not apply to the VFR operation of fixed-wing aircraft at any of the locations where the special weather minimums of 14 CFR 91.107 are not applicable (See Appendix D of 14 CFR part 91). The basic VFR weather minimums of 14 CFR 91.105 apply at those locations.

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

44. The authority for part 127 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, 1422, 1423, 1424, 1425, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

45. Section 127.125 would be amended by revising (b). The introductory text of the section is republished for the convenience of the reader to read as follows:

§ 127.125 Radio equipment for operations over routes navigated by pilotage.

No person may operate a helicopter over a route that can be navigated by pilotage, unless the helicopter is equipped with the radio equipment needed to perform the following functions under normal operating conditions.

* * * * *

(b) Communicate with ATC towers from any point within the lateral limits of controlled airspace designated to the surface within which flights are intended.

* * * * *

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

46. The authority for Part 137 continues to read as follows:

Authority: 49 U.S.C. 1348(c), 1354(a), 1421 and 1427; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

47. Section 137.43 would be revised to read as follows:

§ 137.43 Operations in Class D and E airspace.

(a) Except for flights to and from a dispensing area, no person may operate an aircraft within Class D airspace unless authorization for that operation has been obtained from the control tower concerned.

(b) No person may operate an aircraft in weather conditions below VFR minimums within Class D airspace or within the lateral limits of a Class E airspace area designated to the surface unless authorization for that operation has been obtained from the appropriate ATC facility.

(c) Notwithstanding § 91.107(a)(2) of this chapter, an aircraft may be operated under the special VFR weather minimums without meeting the requirements prescribed therein.

PART 171—NON-FEDERAL NAVIGATION FACILITIES

48. The authority for part 171 continues to read as follows:

Authority: 49 U.S.C. 1343, 1346, 1348, 1354(a), 1355, 1401, 1421 (as amended by Pub. L. 100–223), 1422 through 1430, 1472(c), 1502 and 1522; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

49. Section 171.49 would be amended by revising paragraph (e) and the concluding text to the section to read as follows:

§ 171.49 Installation requirements.

* * * * *

(e) The facility must have, or be supplemented by (depending on the circumstances) the following ground-air or landline communications services:

(1) At facilities outside of and not immediately adjacent to controlled airspace, ground-air communications from the airport served by the facility must be available. The utilizaton of voice on the ILS frequency should be determined by the facility operator on an individual basis.

(2) At facilities within or immediately adjacent to controlled airspace, there must be the ground-air communications required by paragraph (e)(1) of this section and reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility. Paragraphs (e)(1) and (e)(2) of this section are not mandatory at airports where an adjacent FAA facility can communicate with aircraft on the ground at the airport and during the entire proposed instrument approach procedure. In addition, at low traffic density airports within or immediately adjacent to controlled airspace, and where extensive delays are not a factor, the requirements of paragraphs (e)(1) and (e)(2) of this section may be reduced to reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility, if an adjacent FAA facility can communicate with aircraft during the proposed instrument approach procedure down to the airport surface or at least to the minimum approach altitude.

50. Section 171.113 would be amended by revising (f) to read as follows:

§ 171.113 Installation requirements.

* * * * *

(f) The facility must have the following ground-air or landline communications services:

(1) At facilities outside of and not immediately adjacent to controlled airspace, there must be ground-air communications from the airport served by the facility. The utilization of voice

on the SDF should be determined by the facility operator on an individual basis.

(2) At facilities within or immediately adjacent to controlled airspace, there must be ground-air communications required by paragraph (b)(1) of this section and reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility.

* * * * *

§ 171.271 [Amended]

51. In § 171.271, paragraph (e) would be amended by changing the words "air traffic control areas" and "air traffic control zones or areas" to read "controlled airspace."

Issued in Washington, DC, on September 18, 1989.

David J. Hurley,

Acting Director, Air Traffic Operations Service.

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